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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/741,537	12/19/2003	Bruce Douglas Spangrud	OUTKC.0001P	5139
32856	7590	12/02/2005	EXAMINER	
WEIDE & MILLER, LTD. 7251 W. LAKE MEAD BLVD. SUITE 530 LAS VEGAS, NV 89128			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/741,537

Applicant(s)

SPANGRUD, BRUCE DOUGLAS

Examiner

Josiah Cocks

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on response filed 11/4/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15, 16 and 32-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15, 16 and 32-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/10/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of invention III (a burner unit) in the reply filed 10/04/2005 is acknowledged. This reply cancelled claims 1-14 and 17-31 as being drawn to non-elected inventions. Claims 32-41 were added. Currently claims 15, 16, and 32-41 are pending.

### ***Drawings***

2. The drawings filed 12/19/2003 are accepted by the examiner.

### ***Specification***

3. The abstract of the disclosure is objected to because it does not adequately describe the "nature and gist" of the invention as now presented. Correction is required. See MPEP § 608.01(b).
4. The title of the invention is not adequately descriptive of the invention as now presented. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3749

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15, 32-34, and 38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. DE 42 13 197 to Polzer ("Polzer").

Polzer discloses in the description and drawings an invention in the same field of endeavor as applicant's invention and as described in applicant's claims 15, 32-34, and 38-41. In particular, Polzer shows a burner for a grill unit including a U-shaped burner conduit (11) with first and second legs (e.g. 5, 6, or 7, 8, or 9, 10). The legs are circular in cross-section (see Fig. 2) and include a plurality of apertures formed therein (see Fig. 1). The apertures are located only in the leg portions and some of these apertures face one another (note at least 26 and 27). The burner further includes a delivery conduit with a central section (16, 17, or 18) defining first and second arms (arms of 19, 20, or 21) that connect to a pair of legs to delivery gas to the legs (see English abstract).

### *Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polzer as applied to claims 15 and 32 above in view of U.S. Patent No. 6,176,173 to Holbrook et al. ("Holbrook").

Art Unit: 3749

Polzer discloses all the limitations of claims 16 and 35-37 except for a diverter plate as described.

Holbrook teaches a burner in the same field of endeavor as both applicant's invention and Polzer. In Holbrook, a U-shaped diverter plate (see Figs. 8 and 9) is arranged above a U-shaped burner conduit.

Therefore, in regard to claims 16 and 35-37, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the burner of Polzer to incorporate the diverter plate of Holbrook as this plate desirably functions to provide even heat distribution and prevent flames from directly impinging upon food being cooked above the burner (see Holbrook, col. 6, lines 13-54).

### *Conclusion*

9. This action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 3,871,355 (Henry), 4,741,321 (Squires), 5,706,797 (Moore, Jr. Et al.), 5,711,663 (Giebel et al.) and German Patent No. 297 20 168 are cited to further show the state of the art regarding burner structure in grill units.


Art Unit: 3749

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc  
November 28, 2005

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749